

## **REMARKS**

### **I. Introduction**

Claims 1-24 are pending in the application. In the Office Action dated March 31, 2008, the Examiner rejected claims 22-24 under 35 U.S.C. § 102(e) as being anticipated by U.S. Pat. No. 7,028,082 ("Rosenberg"). Additionally, claims 1-3, 5-14, 16, 17, and 19-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Rosenberg in view of U.S. Pat. No. 7,272,629 ("Yamaura"), and claims 4, 15, and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Rosenberg in view of Yamaura and U.S. Pat. No. 6,643,621 ("Dodrill"). Applicants request reconsideration in light of the following remarks.

### **II. The Proposed Combinations Do Not Render Claim 1 Unpatentable**

Independent claim 1 recites a server data transmitting/receiving unit operable to transmit desired music data of a list of music data to a second client apparatus in response to selection at the second client apparatus of desired music data of the list of music data available to be transmitted to the second client apparatus. The Examiner has admitted that Rosenberg fails to teach transmitting music data in response to selection of the music data by a user. In an attempt to cure the deficiency, the Examiner proposes combining Rosenberg with Yamaura. Because modifying Rosenberg as proposed by the Examiner to perform actions such as transmitting music data in response to selection of music data by a user alters a principle operation of Rosenberg, the proposed combination of Rosenberg and Yamaura is improper. (See MPEP §§ 2141.02 and 2143.01).

Rosenberg is directed to a personalized audio system and method. Generally, Rosenberg teaches users creating a profile with information regarding music preferences. The music preferences may relate to a specific type of music, or specific songs. The profiles with music preferences are submitted to broadcasters that create playlists for audio channels based on the music preferences of users who listen to the audio channels. Rosenberg specifically states that a user has no direct control over which songs get played on an audio channel. (See Col. 8, lines 5-23). Thus, not only would modifying Rosenberg as proposed by the Examiner to perform actions such as

transmitting music data in response to selection of music data by a user alter a principle operation of Rosenberg, but Rosenberg actually teaches away from such a modification.

For at least these reasons, the proposed combination of Rosenberg and Yamaura is improper. Accordingly, the proposed combinations of Rosenberg, Yamaura, and Dodrill do not render independent claim 1, or any claim that depends on claim 1, unpatentable.

### **III. The Proposed Combinations Do Not Render Claim 13 Unpatentable**

Independent claim 13 recites a reproducing unit operable to receive data corresponding to music data selected by a user at a selecting unit that has been transmitted from a server apparatus in response to selection of the music data by the user. As discussed above in conjunction with claim 1, because modifying Rosenberg as proposed by the Examiner to perform actions such as transmitting music data in response to selection of music data by a user alters a principle operation of Rosenberg, the proposed combination of Rosenberg and Yamaura is improper. For at least this reason, the proposed combinations of Rosenberg, Yamarua, and Dodrill do not render independent claim 13, or any claim that depends on claim 13, unpatentable.

### **IV. The Proposed Combinations Do Not Render Claim 17 Unpatentable**

Independent claim 17 recites a server data transmitting/receiving unit operable to transmit music data selected at a client apparatus to the client apparatus in response to selection of the music data at the client apparatus. As discussed above in conjunction with claim 1, because modifying Rosenberg as proposed by the Examiner to perform actions such as transmitting music data in response to selection of music data by a user alters a principle operation of Rosenberg, the proposed combination of Rosenberg and Yamaura is improper. For at least this reason, the proposed combinations of Rosenberg, Yamarua, and Dodrill do not render independent claim 17, or any claim that depends on claim 17, unpatentable.

**V. Rosenberg Does Not Anticipate Independent Claim 22**

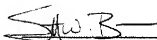
Independent claim 22 recites selecting a decoder used to reproduce content on a client apparatus based on a desired medium. While Rosenberg may state that the Rosenberg system may include a decoder, Rosenberg fails to make any mention of selecting a decoder, or selecting a decoder based on a medium as recited in claim 22. The Examiner asserts that "storing and recording a list of selected recording implies and using decoder 222 implies selecting based on desired medium." (See Office Action dated March 31, 2008, page 4). Applicants disagree. Applicants note that in the portions of Rosenberg cited by the Examiner discussing storing and recording a list of selected recordings, there is no mention of a decoder. Further, it does not necessarily follow that because the Rosenberg system may include a decoder, that the decoder is selected based on a desired medium.

Rosenberg fails to teach selecting a decoder used to reproduce content on a client apparatus based on a desired medium. For at least this reason, Rosenberg necessarily does not anticipate independent claim 22, or any claim that depends on claim 22.

**VI. Conclusion**

In view of the foregoing remarks, Applicants submit that the pending claims are in condition for allowance. If there are any questions concerning this Response, the Examiner is asked to phone the undersigned attorney at (312) 321-4200.

Respectfully submitted,



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